

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

On August 7, 2007, plaintiff, appearing *pro se*, filed an “*ex parte* application to submit group #10 exhibits” to defendant Billie Moore’s answer to plaintiff’s first amended complaint. Plaintiff previously attempted to file a “traversal” and “Exhibit #10” to Moore’s answer but the court rejected the document for failing to obtain leave of Court to file a response to the answer.¹ [doc. #42].

Plaintiff's current *ex parte* application seeks to have the same exhibits filed that were attached to her stricken "traversal". The current application contains a memorandum in support of her application that is virtually identical to the "traversal" she attempted to file on July 9,

¹ The Federal Rules of Civil Procedure do not provide for the filing of a response to an answer: “There shall be a complaint and an answer; No other pleading shall be allowed, except that the court may order a reply to an answer or a third-party answer.” FED. R. CIV. P. 7(a). The Court has not ordered a reply to Moore’s answer and such a reply will not be permitted here.

1 2007. [doc. #42]. Thus, plaintiff is attempting to get her stricken “traversal” before the Court by
 2 filing the present memorandum in support of having certain exhibits filed. This blatant attempt
 3 to circumvent the Court’s prior decision to strike the “traversal” amounts to bad faith and is a
 4 mischief upon the Court that will not be tolerated. For this reason, plaintiff’s *ex parte*
 5 application is denied.

6 Moreover, evidentiary materials should not be presented to the Court given the present
 7 procedural posture of the case, *i.e.*, all the defendants have not been served; there has been no
 8 early neutral evaluation (“ENE”) or preliminary case management conference (“CMC”) and as a
 9 result, no discovery is permitted to be requested absent leave of court; and there are no pending
 10 motions that require an evidentiary presentation. Like all litigants in federal court, plaintiff must
 11 await the ENE and CMC in order to go forward with this action. The ENE will be set after
 12 August 24, 2007 – the previously extended time for plaintiff to effectuate service of process on
 13 the remaining unserved defendants. (Order filed July 18, 2007 [doc. #46]). For this reason as
 14 well, plaintiff’s *ex parte* application to “submit group #10 exhibits” is denied.

15 Plaintiff attention is again directed to Federal Rule of Civil Procedure 11. (See Order
 16 filed July 18, 2007 [doc. #46]). As noted in that Order, the purpose of Rule 11 is to “curb
 17 baseless filings ‘which abuse the judicial system and burden courts and parties with needless
 18 expense and delay.’” (Order at 4 (quoting *Judin v. United States*, 110 F.3d 780, 784 (Fed. Cir.
 19 1997)). Plaintiff’s current *ex parte* application is such a filing. Although plaintiff is appearing
 20 *pro se*, she is must comply with the Federal Rules of Civil Procedure and the Civil Local Rules.
 21 Further frivolous and/or bad faith filings will likely subject plaintiff to monetary and/or other
 22 sanctions.

23 Based on the foregoing, **IT IS ORDERED** denying plaintiff’s *ex parte* application to
 24 submit group #10 exhibits [doc. #49].

25 **IT IS SO ORDERED.**

26 DATED: August 13, 2007

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 28 
 M. James Lorenz
 United States District Court Judge

1 COPY TO:

2 HON. LEO S. PAPAS
3 UNITED STATES MAGISTRATE JUDGE

4 ALL PARTIES/COUNSEL

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